

## **REMARKS**

Reconsideration and withdrawal of the examiner's rejections under 35 USC § 103, and obviousness type double patenting rejections is respectfully requested in view of the above amendments and the following remarks. The applicant would like to thank the examiner for her time and kind cooperation in this matter.

### **35 USC § 103**

The examiner has rejected claims 1-4, 7, 12, 14, 15 and 18 under 35 U.S.C. 103(a) as being unpatentable over Lentini, et al. (US 6,177,092), in view of Guilbeaux (US 4,929,644).

In response, claim 1 has been amended to require that the first and second components and anhydrous carrier are contained together in a first chamber and that water is contained in a second chamber and wherein the first and second components do not substantially react with each other until contacted by water.

Support for this amendment is provided on page 20, lines 27-29 and Examples 1-6, 8 and 9, where sodium bicarbonate and citric acid are contained together in chamber A in an anhydrous state and where chamber B contains water.

Lentini, et al., relate to a self-foaming system having two components that are maintained in separate containers or separate compartments in the same container so that the components produce carbon dioxide when they commingle with each other upon being dispensed from their individual containers or compartments. See col. 4, lines 17-19. In another example of Lentini, et al., an anhydrous product contained in a sachet containing the (reactive) components of the system can be added to a bath (col. 3, lines 48-53). The skilled person reading Lentini, et al., would understand that the sachet must be a "unitary package with chambers" separately containing each of the acid and bicarbonate so as to prevent their premature reaction with each other prior to being added to a bath.

Guilbeaux relates to a thickened organic composition having two organophilic clays separately providing viscosity building and biocidal activity (see abstract).

Applicants respectfully submit that a proper prima facie case under § 103(a) is not made out with respect to amended claim 1 at least because the disclosure of Lentini, et al., in view of Guilbeaux fails to disclose a first component in a dispersed phase capable of chemically reacting with a second component and wherein both the first and second components are contained in a first chamber.

The examiner has rejected claims 10 and 11 under 35 U.S.C. 103(a) as being unpatentable over Lentini, et al. (US 6,177,092) in view of Guilbeaux (US 4,929,644) as applied to claims 1-4, 7, 12, 14, 15 and 18 in further view of Gentile, et al. (US 6,161,729). Applicants respectfully traverse this rejection.

As an initial matter, applicants thank the examiner for clarifying that claims 10 and 11 should not be listed as withdrawn. Gentile, et al., relates to a dual chamber dispenser and contains no disclosure regarding the contents of the dispenser. Applicants respectfully submit that Gentile, et al., does not remedy the deficiencies of Lentini, et al., and Guilbeaux with respect to claims 10 and 11 which depend from amended claim 1.

The examiner has rejected claims 5-6 and 8 under 35 U.S.C. 103(a) as being unpatentable over Lentini, et al. (US 6,177,092) in view of Guilbeaux (US 4,929,644) as applied to claims 1-4, 7, 12, 14 and 15 and 18 in further view of Hall, et al. (US 5,316,054). Applicants respectfully traverse this rejection.

Hall, et al., relates to a self-contained package for housing dispensing and diluting concentrated liquid. Applicants respectfully submit that Hall, et al., does not remedy the deficiencies of Lentini, et al., and Guilbeaux with respect to claims 5-6 and 8 which depend from amended claim 1.

The examiner has rejected claims 1, 3, 4, 7, 9, 12, 14, 15 and 18 under 35 U.S.C. 103(a) as being unpatentable over David (US 5,720,949) in view of Guilbeaux (US 4,929,644) and Pettengill (US 5,020,694). Applicants respectfully traverse this rejection.

Davis relates to a cosmetic mask product having an effervescent agent and an acid component that is applied sequentially to treat the skin (as the examiner admits). Such compositions must be separably contained in the mask product disclosed by Davis to allow for

sequential application as would be apparent to the skilled person (see abstract, also col. 10, lines 44-65, examples 1-4). In addition, applicants note the examiner's statement regarding the absence of a definition of organophilic particle. In response, applicants respectfully assert that the skilled person would understand the meaning of the term as a particle that is attractive to nonpolar, organic molecules (see attached definition from "Online Medical Dictionary"). Applicants respectfully submit that such claim limitation not be disregarded.

Guilbeaux is discussed above. Pettengill discloses multi-cavity dispensing containers but says nothing about the composition contained therein. Applicants respectfully submit that a proper prima facie case under § 103 not made out with respect to amended claim 1 at least because there is no disclosure of a first and second component that can react with each other and that are contained together in the same chamber.

#### **Obvious-Type Double Patenting**

Claims 1-15 and 18 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11, 13, and 16-17 of codepending Application No. 10/730,218 in view of Lentini, et al., (US 6,177,092).

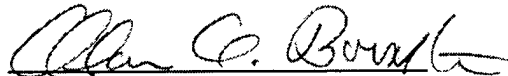
Applicant respectfully submits that if the provisional double patenting rejection is the only rejection remaining in the application, the examiner is respectfully requested to withdraw the rejection allowing the instant case to issue thereby converting the provisional double patenting rejection to a double patenting rejection for application no. 10/730,218. MPEP 804 (I)(B).

### CONCLUSION

In summary, claims 1, 4 and 6 have been amended, claim 7 has been cancelled as being redundant and the status of claims 10 and 11 was corrected to read original and not withdrawn accordingly to the examiners kind suggestion. No new matter has been added.

In light of the above remarks, applicants submit that the claims now pending in the present application are in condition for allowance. The examiner is invited to contact the undersigned if there are any questions concerning the case.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Alan A. Bornstein", written in black ink.

Alan A. Bornstein  
Registration No. 40,919  
Attorney for Applicant(s)

AAB/ss  
(201) 894-2180